

BEFORE THE
POSTAL REGULATORY COMMISSION

Institutional Cost Contribution
Requirement for Competitive Products

Docket No. RM2022-2

**COMMENTS OF PACKAGE SHIPPERS ASSOCIATION,
AMERICAN CATALOG MAILERS ASSOCIATION,
ASSOCIATION FOR MAIL ELECTRONIC ENHANCEMENT (AMEE),
ANA—ASSOCIATION OF NATIONAL ADVERTISERS,
CONTINUITY SHIPPERS ASSOCIATION,
ENVELOPE MANUFACTURERS ASSOCIATION,
INTERNATIONAL MAILERS ADVISORY GROUP,
MAILERS HUB, MAJOR MAILERS ASSOCIATION,
NATIONAL ASSOCIATION OF PRESORT MAILERS,
AND PRINTING UNITED ALLIANCE
("PSA, ET AL.")**

(February 25, 2022)

The above-listed group of stakeholders file these comments pursuant to Order No. 6043, the Supplemental Notice of Proposed Rulemaking and Order Initiating the Third Review of the Institutional Cost Contribution Requirement for Competitive Products, issued by the Postal Regulatory Commission on November 18, 2021. PSA, et al. represent letters and flats mailers and package shippers who use and rely on the Postal Service to provide affordable mail and package delivery services.

We urge the Commission to eliminate the minimum contribution requirement. Elimination of the minimum contribution requirement received broad industry support in the last review.¹ The Commission's findings in Order No. 6043 demonstrate that a minimum contribution requirement is unnecessary to promote fair competition, prevent cross subsidization, or encourage the Postal Service to maximize contributions from competitive products. The Commission's findings further confirm

¹ Docket No. RM2017-1, Comments of Parcel Shippers Association, Alliance of Nonprofit Mailers, American Catalog Mailers Association, Continuity Shippers Association, Data & Marketing Association, Envelope Manufacturers Association, National Association of Presort Mailers, National Newspaper Association, PSI Systems, and Stamps.Com ("Market Dominant Mailers and Competitive Shippers") (January 23, 2017) at 1.

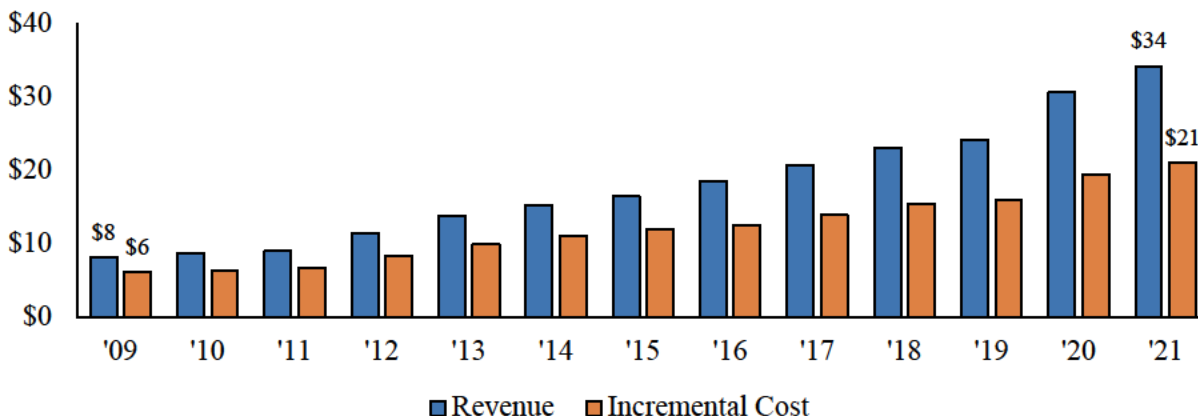
that imposing a minimum contribution requirement would, if binding, only help private competitors at the expense of the Postal Service, mailers, shippers, and American consumers and businesses.

1. The Commission Has Consistently Held There Is No Cross Subsidy

The minimum contribution requirement is unnecessary to prevent the cross subsidization of competitive products by market dominant ones. This is accomplished by the independent statutory pricing requirement codified at 39 U.S.C. § 3633(a)(1), which the Commission has, consistent with mainstream economic practice, implemented by requiring competitive product revenues to cover their incremental costs. Additionally, 39 U.S.C. § 3633(a)(2) requires each competitive product (including each competitive products negotiated service agreement) to cover its costs. By definition, a product or group of products is not subsidized if its revenues exceed its incremental costs.

Consistent with 39 U.S.C. § 3633(a)(1), Figure 1 demonstrates that competitive product revenues have exceeded incremental cost each year and by increasing amounts. In FY 2021, competitive product revenues were \$34.2 billion and competitive product incremental costs were \$21 billion, resulting in \$13.2 billion in excess revenue above incremental cost.²

Figure 1: Competitive Product Revenue and Incremental Cost (in Billions)



Source: PSA et al-LR-RM2022-2-1.xlsx, “Figure 1”

Based on this history, the Commission has made an affirmative finding every year since the Postal Accountability and Enhancement Act’s enactment to the effect that “there is no evidence to suggest that competitive products are being illegally cross-subsidized by Market Dominant products.”³ The Commission has also consistently held that the Postal Service has not engaged in anticompetitive

² See Docket No. ACR2021, USPS-FY21-1, Public_FY21CRAReport.xlsx, “Cost3”.

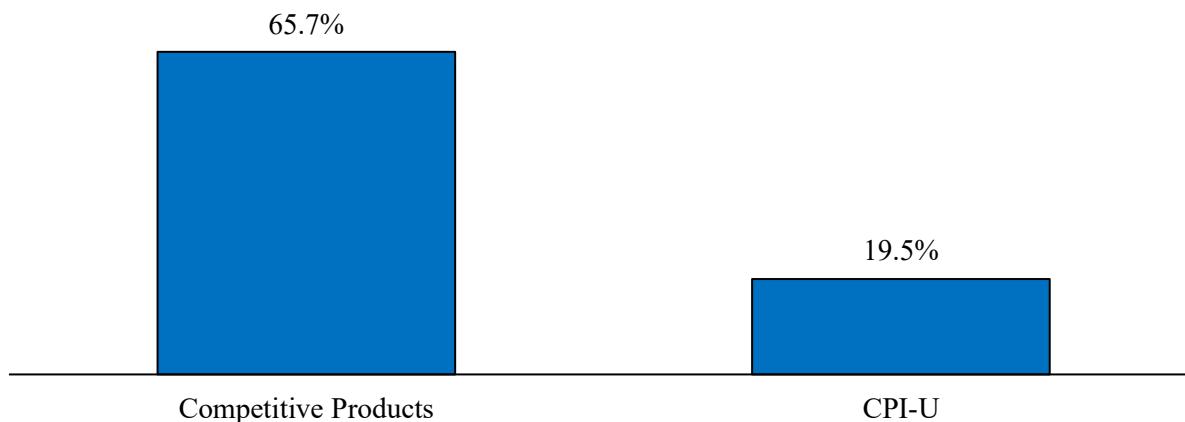
³ Docket No. ACR2020, Annual Compliance Determination Report (Mar. 29, 2021) at 70. The Commission has reached the same conclusion in each of the last 14 annual compliance determination reports.

pricing to seek an unfair advantage over its private competitors.⁴ These findings are compelled by the fact that competitive products revenues have consistently exceeded their incremental costs.

2. The Commission Has Consistently Held the Postal Service Is Pricing Competitive Products to Maximize Profits

The minimum contribution requirement is also unnecessary to ensure that the Postal Service is seeking to maximize profits from competitive products. The Postal Service’s practice of raising competitive product prices substantially above inflation, rather than just enough to meet the minimum contribution requirement, makes clear that “the Postal Service is profit-maximizing with respect to its Competitive products.”⁵ As Figure 2 shows, the average competitive product price increase from FY 2011 to FY 2021 was more than three times the rate of inflation. The Postal Service’s actual pricing behavior, raising prices to increase contribution (profit), support the Commission’s finding that “[t]here is no evidence that the Postal Service has engaged in anticompetitive pricing of Competitive products.”⁶

Figure 2: Cumulative Competitive Product Rate Increases v. CPI-U, 2011-2021



Source: PSA et al-LR-RM2022-2-1.xlsx, “Figure 2”

As Table 1 shows, these substantially above-inflation price increases were broad-based, covering all major competitive products.

⁴ See Docket Nos. RM2017-1, RM2022-2, Order No. 6043, (Nov. 18, 2021) at 92 (“there is no evidence on this record to indicate that the Postal Service has ever engaged in anticompetitive pricing of Competitive products) [hereinafter Order No. 6043].

⁵ Order No. 6043, at 60, n. 97 (citing Order No. 4963, at 60-62).

⁶ Order No. 6043, at 9.

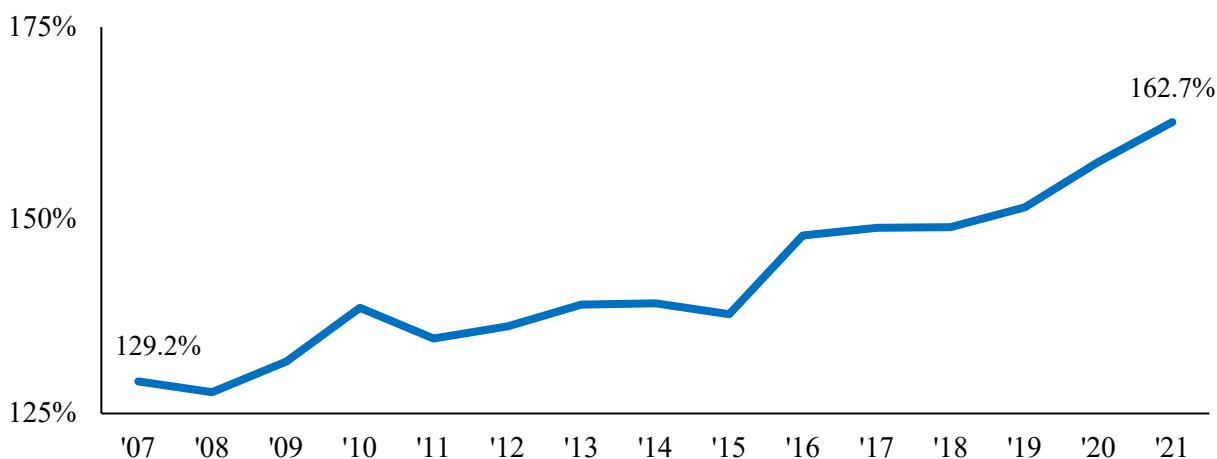
Table 1: Cumulative Price Increases for Competitive Products v. CPI-U

Product	Cumulative Increase
<i>2011 – 2021</i>	
Priority Mail Express	52.1%
Priority Mail	48.2%
Parcel Select	87.2%
Parcel Select Lightweight	189.7%
First-Class Package Service – Commercial	75.2%
CPI-U	19.5%
<i>2016 – 2021</i>	
First-Class Package Service – Retail*	55.2%
CPI-U	11.6%
* Since transfer to Competitive Product List	

Source: PSA et al-LR-RM2022-2-1.xlsx, “Table 1”

Based upon these price increases, the cost coverage (revenue divided by incremental cost) for competitive products has consistently increased. In FY 2021, the cost coverage of competitive products collectively was 162.7 percent, above the system-wide cost coverage of 156.9 percent.

Figure 3: Competitive Product Cost Coverage



Source: PSA et al-LR-RM2022-2-1.xlsx, “Figure 3”

These trends further confirm that the Postal Service is pricing its competitive products to maximize contribution. Because both market dominant and competitive products cover their incremental costs, there is no cross subsidy between the two product categories.⁷

The Commission has also held that any “cost advantages” the Postal Service experiences are a result of network efficiencies inherent in its universal service mission. The Postal Service benefits from the inherent cost efficiencies of an integrated delivery network that allow the Postal Service to

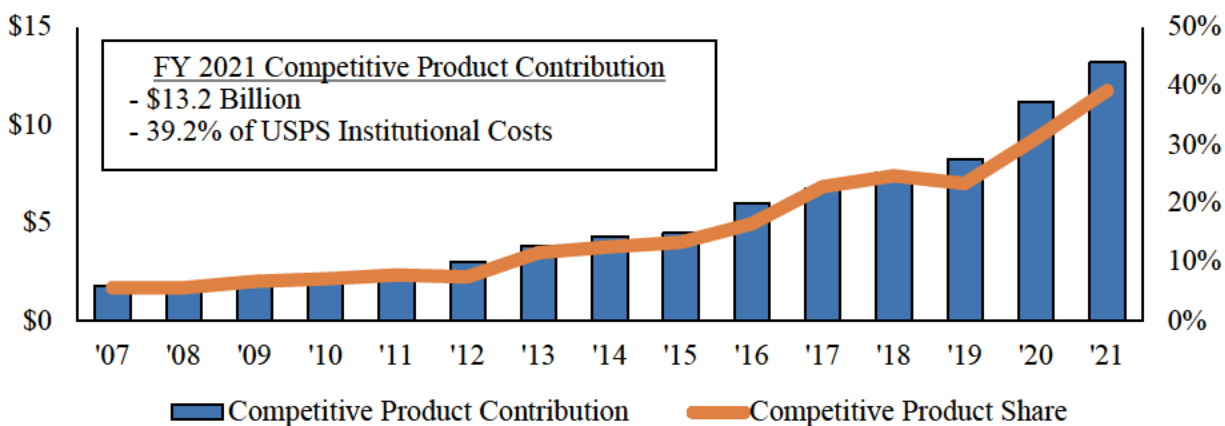
⁷ Docket No. ACR2021, USPS-FY21-1, Public_FY21CRARReport.xlsx.

leverage economies of scale (handling more of the same products) and scope (handling several different products).⁸ These cost advantages are essential to the Postal Service’s ability to meet its universal service obligations. The same universal service obligations have led the Commission to repeatedly confirm the validity of the Federal Trade Commission’s conclusion that the Postal Service operates at a net economic disadvantage relative to private competitors.⁹

3. A Profitable Package Business Helps Defray the Costs of Preserving Universal Mail Service

The Postal Service’s ability to efficiently deliver letters and flats mail and packages together is essential to the future viability of the postal system. An efficient letter mail business is necessary to ensure a profitable package business, and a profitable package business is necessary to financially sustain a nationwide delivery network. The current proceeding focuses on the competitive package business. The competitive package business is growing, profitable, and increasingly important in defraying the costs of providing universal mail service. Figure 4, below, shows the growth in contribution from competitive products and the growing share of institutional costs covered by competitive products. In FY 2021 competitive products contributed more than four times (39.2 percent) the regulatory minimum contribution requirement (9.1 percent).¹⁰

Figure 4: Competitive Product Contribution (Billions) and Institutional Cost Share



Source: PSA et al-LR-RM2022-2-1.xlsx, “Figure 4”

⁸ See Order No. 6043, at 28.

⁹ See Docket No. RM2017-1, Order No. 4963 (Jan. 3, 2019) at 187.

¹⁰ See Order No. 6043, at 106 (listing appropriate share calculation for FY 2021 as 9.1%).

This contribution from competitive products is critical to the Postal Service and its customers. For FY 2021, at \$13.2 billion, represents approximately 32 percent of total market dominant revenue.¹¹ Setting aside potential price-driven volume effects, in FY 2021 market dominant prices would have needed to be 30 percent higher to make up for the loss of this contribution from competitive products. Just as package shippers benefit from the Postal Service’s efficient letter and flats mail delivery network, letter and flats mailers benefit from a growing and profitable competitive package delivery business.

4. A Minimum Contribution Requirement Is Unnecessary and Potentially Distortive

As demonstrated above, the actual contribution made by competitive products has consistently and substantially exceeded the minimum contribution set by regulation, and the Commission has confirmed that USPS pricing behavior is consistent with that of a profit-maximizing firm.¹² In a functioning market “competition should result in efficient prices and the Postal Service should seek to generate as much contribution as the market will permit.”¹³ Indeed, the Commission has repeatedly found that “all available evidence suggests that the incentive has worked as intended and that the Postal Service is profit-maximizing with respect to its Competitive products.”¹⁴ This incentive renders the minimum contribution requirement superfluous.¹⁵ Accordingly, the Commission has correctly observed that “a required contribution level to institutional costs should theoretically be an unnecessary component of Competitive product regulation.”¹⁶

Despite express statutory permission to eliminate the minimum contribution requirement, the Commission has declined to do so. This is a concern because setting the minimum contribution requirement at a level that affects prices is not just unnecessary, but, if binding, would be harmful to the Postal Service, mailers, shippers, and consumers.

In examining the risks associated with the minimum contribution requirement being set too high, the Commission has appropriately stated that raising the appropriate share floor above competitive levels would only confer competitive advantages on the Postal Service’s competitors.¹⁷ “[A] price floor set too high could harm the Postal Service’s ability to compete” limiting “fair

¹¹ FY 2021 market dominant revenue was \$41.6 billion. See FY 2021 Revenue, Pieces, and Weight Report.

¹² See Order No. 6043, at 10.

¹³ *Id.*, at 60.

¹⁴ Order No. 6043, at 60, n. 97 (citing Order No. 4963, at 60-62).

¹⁵ See *id.*, 61, n. 98.

¹⁶ *Id.*, at 60.

¹⁷ See *id.*, at 61.

competition” in “the market for competitive postal services.”¹⁸ Any regulatory constraint that forced the Postal Service to raise package prices above competitive levels would directly harm the Postal Service, package shippers and the ultimate consumers in the form of higher prices and shipping costs. All consumers would be affected, but those in remote, rural and peripheral communities would be disproportionately harmed because they have fewer choices and private carriers often impose surcharges for delivery to rural and residential addresses.

A regulatory price floor set too high would also harm the Postal Service and letters and flats mailers. Forcing the Postal Service to set prices above competitive levels would cause the Postal Service to lose profitable package volumes; lost volumes would lead to lost contribution, saddling letters and flats mailers with higher prices and degraded service.

There is a risk in keeping any minimum contribution requirement. The economic disruptions of the past two years, including the pandemic, associated supply chain disruptions and inflationary pressures, demonstrate how quickly market conditions can change. Any minimum contribution requirement could impair the Postal Service’s ability to respond to dramatic shifts in market conditions to the detriment of the Postal Service, mailers, shippers and consumers.

For the reasons stated herein, PSA, et al. urge the Commission to eliminate the minimum contribution requirement.

Respectfully submitted,

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¹⁸ *Id.*

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